

## To the Honorable Council City of Norfolk, Virginia

April 12, 2016

From:

George M. Homewood, AICP, CFM, Planning Director

Subject:

Special Exception to operate an eating and drinking establishment at 5511 Faris Street

- FMC Garden Café

Reviewed:

Ward/Superward: 4/7

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Ronald H. Williams, Jr., Deputy City Manager

Approved:

Marcus D. Jones, City Manager

**Item Number:** 

**R-4** 

I. Staff Recommendation: Approval.

- II. Commission Action: By a vote of 7 to 0, the Planning Commission recommends Approval.
- III. Request: Special Exception to operate an eating and drinking establishment
- IV. Applicant: Brandon Morrison

#### V. Description:

This request is to allow Full Metal Chef Garden Café, an existing restaurant, to serve alcoholic beverages for on-premises consumption.

	Proposed
	8:00 a.m. until 9:00 p.m.,
Hours of Operation and for the Sale of	Monday through Saturday
Alcoholic Beverages	10:00 a.m. until 4:00 p.m.,
	Sunday
20 T	45 seats indoors
Capacity	0 seats outdoors
	50 total capacity

#### VI. Historic Resources Impacts

- The site is not located within a federal, state, or local historic district.
  - Since the building on the site is at least 50 years old, the site could potentially meet the criteria for designation as a federal, state or local historic resource under the Department of Historic Resources guidelines.

## VII. Public Schools Impacts

This site is located within the Tanners Creek Elementary School, Lake Taylor Middle School, and Booker T. Washington High School Attendance Zones.

Staff point of contact: Chris Whitney at 823-1253, <a href="mailto:chris.whitney@norfolk.gov">chris.whitney@norfolk.gov</a>

#### Attachments:

- Staff Report to CPC dated March 24, 2016 with attachments
- Proponents and Opponents
- Ordinance



# Planning Commission Public Hearing: March 24, 2016

601 JUNNExecutive Secretary: George M. Homewood, AICP, CFM JIMWIF
Planner: Chris Whitney, CFM Con

Staff Report	Item No. 12			
Address	5511 Faris Street			
Applicant	FMC Garden Café			
Request	Special Exception	Eating and drinking establishment		
Property Owner	JC&G Properties of VA, LLC			
	Site Area/Building Area	24,360 sq. ft./1,678 sq. ft.		
	Future Land Use Map	Industrial		
Site Characteristics	Zoning	I-1 (Limited Industrial)		
	Neighborhood	Idlewood/Sandy Heights		
	Character District	Suburban		
	North	C-2 (Corridor Commercial): Vanguard Real Estate Holdings		
Surrounding Area	East	I-1: Parking lot for Verizon		
•	South	I-1: Offices and parking lot for Verizon		
	West	I-1: Turnkey Building Services		



#### A. Summary of Request

This request is to allow Full Metal Chef Garden Café, an existing restaurant, to serve alcoholic beverages for on-premises consumption.

#### **B. Plan Consistency**

The proposed special exception is consistent with *plaNorfolk2030*, which designates this site as industrial.

#### C. Zoning Analysis

#### General

- The use is permitted in the I-1 district by special exception.
- This site has operated as an eating establishment since at least 1992 and this restaurant has been in operation since August 2015.

	Proposed
	8:00 a.m. until 9:00 p.m.,
Hours of Operation and for the Sale of	Monday through Saturday
Alcoholic Beverages	10:00 a.m. until 4:00 p.m.,
	Sunday
	45 seats indoors
Capacity	0 seats outdoors
	50 total capacity

#### ii. Parking

- The site is located in the Suburban Character District, which requires one parking space per 150 square feet of enclosed building area for eating and drinking establishments.
- For an eating and drinking establishment of this size, the *Zoning Ordinance* requires that the site provide a minimum of 11 parking spaces.
  - There are currently 11 parking spaces on-site.

#### iii. Flood Zone

The property is located in the X Flood Zone, which is a low-risk flood zone.

#### D. Transportation Impacts

- Institute of Transportation Engineers figures calculate forecast travel for restaurants based upon the total seating of an establishment.
- Since no increase in indoor seating is being proposed for the site, no additional trips are projected.
- The site is near transit services with Hampton Roads Transit bus route 15 (Military) operating near the site.
- Azalea Garden Road near to the site is an identified priority corridor in the City of Norfolk Bicycle and Pedestrian Strategic Plan.

#### E. Historic Resources Impacts

- The site is not located within a federal, state, or local historic district.
  - Since the building on the site is at least 50 years old, the site could potentially meet the criteria for designation as a federal, state or local historic resource under the Department of Historic Resources guidelines.

#### F. Public Schools Impacts

This site is located within the Tanners Creek Elementary School, Lake Taylor Middle School, and Booker T. Washington High School Attendance Zones.

#### G. Environmental Impacts

- The applicant has made landscaping and site improvements to the property recently:
  - Foundation plantings have been installed along the front of the building.
  - The parking lot has been re-paved and re-striped.

#### H. Surrounding Area/Site Impacts

Over the past year there have been four calls for police service with no arrests made.

#### I. Payment of Taxes

The owner of the property is current on all real estate taxes.

#### J. Civic League

- Notice was sent to the Idlewood/Sandy Heights and Azalea Acres/Azalea Lakes Civic Leagues on February 10.
- The applicant contacted the Idlewood/Sandy Heights Civic League on January 25.

#### K. Communication Outreach/Notification

- Legal notice was posted on the property on February 16.
- Letters were mailed to all property owners within 300 feet of the property on March 11.
- Legal notification was placed in The Virginian-Pilot on March 10 and March 17.

#### L. Recommendation

Staff recommends approval of the special exception request subject to the conditions below:

- (a) The hours of operation for the establishment and for the sale of alcoholic beverages shall be from 8:00 a.m. until 9:00 p.m., Monday through Saturday and from 8:00 a.m. until 4:00 p.m. Sunday. No use of the establishment outside of the hours of operation listed herein shall be permitted.
- (b) The seating for the establishment shall not exceed 45 seats indoors, no seats outdoors, and the total occupant capacity, including employees, shall not exceed 50 people.

- (c) This special exception shall terminate in the event of a change in ownership of the establishment and may be revoked in the event of a change in the operation of the establishment as described in the Description of Operations set forth in "Exhibit A," attached hereto, provided that no termination in the event of a change in ownership of the establishment shall be effective until 120 days after the change or until a new special exception is granted showing the new owner, whichever is earlier.
- (d) The establishment shall maintain a current, active business license at all times while in operation.
- (e) The establishment shall remain current on all food and beverages taxes and business personal property taxes which may become due while it is in operation.
- (f) No public telephone(s) shall be permitted on the exterior of the property. Any public phone(s) on the interior of the building shall be located in an area within full view of the establishment's staff and shall not be permitted within any restroom.
- (g) Trash canisters or dumpsters shall be gated and not visible from any public rightof-way.
- (h) During all hours of operation, the establishment operator shall be responsible for maintaining those portions of public rights-of-way improved by sidewalk and portions of any parking lot adjacent to the premises regulated by the special exception so at to keep such areas free of litter, refuse, solid waste, snow, ice, and any bodily discharge.
- (i) A menu shall be provided containing an assortment of foods which shall be made available at all times the establishment is open. A food menu and full dining service shall be available at the bar.
- (j) The business authorized by this special exception shall be conducted in accordance with the Description of Operations set forth in "Exhibit A," attached hereto. The representations made in "Exhibit A" shall be binding upon all owners, operators and managers who operate and/or manage the premises covered by this special exception. Should any owner, operator or manager desire to operate the business in a manner different than as represented in "Exhibit A," a new special exception must be obtained prior to implementing such change. Where any limitation or representation contained in "Exhibit A" is inconsistent with any condition of this ordinance, the conditions of this ordinance shall govern.
- (k) The violation of any requirement, limitation, or restriction imposed by the Virginia ABC Commission shall be deemed a violation of this special exception. This special

exception may be revoked for any violation of a general or specific condition, including a condition incorporated by reference and including a condition arising from requirements, limitations, or restrictions imposed by the ABC Commission or by Virginia law.

- (I) An ABC manager, employed and compensated by the applicant, shall be present at all events held on the premises. This manager shall supervise the event at all times. The ABC manager shall be present on the premises at least one hour prior to the beginning of the event and shall remain on the premises until the event is concluded and the establishment is secured and locked. If alcohol is not served or consumed, a responsible supervisor, employed and compensated by the applicant, shall perform this function.
- (m) In addition to the ABC manager or supervisor the applicant shall provide such additional paid staff as may be necessary to coordinate, supervise, and manage any event held on the premises.
- (n) There shall be no entertainment, no dancing, and no dance floor provided.
- (o) Neither the establishment nor any portion of it shall be leased, let, or used by any third party to stage an event for profit. No outside promoter shall be permitted to use, operate, rent, or host any event on the premises.
- (p) A copy of this special exception ordinance and Exhibits shall be available on the premises at all times for inspection, and a notice indicating that this special exception ordinance and all amendments are kept on the premises and are available for review by any member of the general public shall be posted in a visible location. The notice shall also contain information on where and how to report violations of conditions and shall include the address of the zoning administrator.

#### **Attachments**

Location Map

**Zoning Map** 

1000' radii map of similar ABC establishments and Norfolk Public Schools

Application

Notice to the Idlewood/Sandy Heights and Azalea Acres/Azalea Lakes Civic Leagues

# **Proponents and Opponents**

# **Proponents**

Brandon Morrison – Applicant 5511 Faris Street Norfolk, VA 23513

# **Opponents**

None

03/23/2016 lds

Form and Correctness Approved:

Office of the City Attorney

Contents Approved: CL

DEPT

NORFOLK, VIRGINIA

## ORDINANCE No.

AN ORDINANCE GRANTING A SPECIAL EXCEPTION AUTHORIZING THE OPERATION OF AN EATING AND DRINKING ESTABLISHMENT NAMED "FMC GARDEN CAFÉ" ON PROPERTY LOCATED AT 5511 FARIS STREET.

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That a Special Exception is hereby granted to Full Metal Chef, LLC authorizing the operation of an eating and drinking establishment named "FMC Garden Cafe" on property located at 5511 Faris Street. The property which is the subject of this Special Exception is more fully described as follows:

Property fronts 122 feet, more or less, along the southern line of Faris Street beginning 68 feet, more or less, from the eastern line of Azalea Garden Road and extending eastwardly; premises numbered 5511 Faris Street.

Section 2:- That the Special Exception granted hereby shall be subject to the following conditions:

- (a) The hours of operation for the establishment and for the sale of alcoholic beverages shall be limited to 8:00 a.m. until 9:00 p.m. Monday through Saturday and 10:00 a.m. until 4:00 p.m. on Sunday. No use of the establishment outside of the hours of operation listed herein shall be permitted.
- (b) The seating for the establishment shall not exceed 45 seats indoors, no seats outdoors, and the total occupant capacity, including employees, shall not exceed 50 people.
- (c) This special exception shall terminate in the event of a change in ownership of the establishment and may be revoked in the event of a change in the operation of the establishment as described in the

Description of Operations set forth in "Exhibit A," attached hereto, provided that no termination in the event of a change in ownership of the establishment shall be effective until 120 days after the change or until a new special exception is granted showing the new owner, whichever is earlier.

- (d) The establishment shall maintain a current, active business license at all times while in operation.
- (e) The establishment shall remain current on all food and beverages taxes and business personal property taxes which may become due while it is in operation.
- (f) No public telephone(s) shall be permitted on the exterior of the property. Any public phone(s) on the interior of the building shall be located in an area within full view of the establishment's staff and shall not be permitted within any restroom.
- (g) Trash canisters or dumpsters shall be gated and not visible from any public right-of-way.
- (h) During all hours of operation, the establishment operator shall be responsible for maintaining those portions of public rights-of-way improved by sidewalk and portions of any parking lot adjacent to the premises regulated by the special exception so at to keep such areas free of litter, refuse, and both solid and liquid waste.
- (i) A menu shall be provided containing an assortment of foods which shall be made available at all times the establishment is open. A food menu and full dining service shall be available at the bar.
- (j) The business authorized by this special exception shall be conducted in accordance with the Description of Operations set forth in "Exhibit A," attached hereto. The representations made in "Exhibit A" shall be binding upon all owners, operators and managers who operate and/or manage the premises covered by this special exception. Should any owner, operator or manager desire to operate the business in a manner different than as represented in "Exhibit A," a new special exception

must be obtained prior to implementing such change. Where any limitation or representation contained in "Exhibit A" is inconsistent with any condition of this ordinance, the conditions of this ordinance shall govern.

- (k) The violation of any requirement, limitation, or restriction imposed by the Virginia ABC Commission shall be deemed a violation of this special exception. This special exception may be revoked for any violation of a general or specific condition, including a condition incorporated by reference and including a condition arising from requirements, limitations, or restrictions imposed by the ABC Commission or by Virginia law.
- (1) An ABC manager, employed and compensated by the applicant, shall be present at all events held on the premises. This manager shall supervise the event at all times. The ABC manager shall be present on the premises at least one hour prior to the beginning of the event and shall remain on the premises until the event is concluded and the establishment is secured and locked. If alcohol is not served or consumed, a responsible supervisor, employed and compensated by the applicant, shall perform this function.
- (m) In addition to the ABC manager or supervisor the applicant shall provide such additional paid staff as may be necessary to coordinate, supervise, and manage any event held on the premises.
- (n) There shall be no entertainment, no dancing, and no dance floor provided.
- (o) Neither the establishment nor any portion of it shall be leased, let, or used by any third party to stage an event for profit. No outside promoter shall be permitted to use, operate, rent, or host any event on the premises.
- (p) A copy of this special exception ordinance and Exhibits shall be available on the premises at all times for inspection, and a notice indicating that this special exception ordinance and all amendments are kept on the premises and are available for

review by any member of the general public shall be posted in a visible location. The notice shall also contain information on where and how to report violations of conditions and shall include the address of the zoning administrator.

Section 3:- That the City Council hereby determines that the Special Exception granted herein complies with each of the requirements of § 25-7 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended), namely that:

- (a) The proposed use and development will be in harmony with the objectives and policies of the adopted General Plan of Norfolk and with the general and specific purposes for which this ordinance was enacted and for which the regulations of the district in question were established;
- (b) The proposed use and development will not substantially diminish or impair the value of the property within the neighborhood in which it is located;
- (c) The proposed use and development will not have an adverse effect upon the character of the area or the public health, safety and general welfare. Conditions may be applied to the proposed use and development, as specified in section 25-8 below, to mitigate potential adverse impacts;
- development and will be proposed use (d) The constructed, arranged and operated so as not to interfere with the use and development neighboring property in accordance with the applicable district regulations;
- (e) The proposed use and development will be served adequately by essential public facilities and services such as streets, public utilities, drainage structures, police and fire protection, refuse disposal, parks, libraries, and schools;
- (f) The proposed use and development will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets;
- (g) The proposed use and development will not result in

the destruction, loss or damage of natural, scenic or historic features of significant importance;

- (h) The proposed use and development will not cause substantial air, water, soil or noise pollution or other types of pollution which cannot be mitigated;
- (i) The proposed use and development will not cause a negative cumulative effect, when its effect is considered in conjunction with the cumulative effect of various special exception uses of all types on the immediate neighborhood and the effect of the proposed type of special exception use on the city as a whole;
- (j) The proposed use and development complies with all additional standards imposed on it by the particular provisions of the ordinance authorizing such use; and
- (k) No application for a special exception shall be recommended or granted until any and all delinquent real estate taxes owed to the City of Norfolk on the subject property have been paid.

Section 4:- That this ordinance shall be in effect from the date of its adoption.

ATTACHMENT: Exhibit A (4 pages)



# EXHIBIT "A" Description of Operations Eating and Drinking Establishment

Date 01/26/2016						
Trade name of business FMC Garden Cafe						
Address of business 5511 Faris St						
Name(s) of business owner(s)* Brandon Morrison DBA Full Metal Chef LLC						
Name(s) of property owner(s)* Joe Dunbar - JC&G Properties of VA, LLC						
Daytime telephone number ( 757 ) 351-163						
*If business or property owner is partnership, *If business or property owner is an LLC or Co	all partners m	ust be listed. principals must be listed.				
Proposed Hours of Operation:						
Facility	Alcoholic Be	everage Sales				
Weekday From 8am To 9pm	Weekday	From 8am To 9pm				
Friday From Bam To 9pm Friday From Bam To 9pm						
Saturday From Bam To 9pm Saturday From Bam To 9pm						
Sunday From 10am To 4pm Sunday From 10am To 4pm						
<ul><li>Type of ABC license applied for (check all applicable boxes)</li><li>■ On-Premises</li><li>■ Off-Premises (additional application required)</li></ul>						
3. Type of alcoholic beverage applied for ☑ Beer ☑ Wine ☑ Mixed Beverage						
4. Will indoor or outdoor entertainment be pro (Entertainment consists of anything more to Yes (Different application required)	ovided? han one, unar ☑No	nplified musician)				

# Exhibit A – Page 2 Eating and Drinking Establishment

<ul> <li>Will video games, pool tables, game boards or other types of games be provided</li> <li>☐ Yes (If more than 4, additional application required)</li> <li>☐ No</li> </ul>					
	5a. If yes, please describe type and number of each game to be provided				
6.	Will patrons ever be charged to enter the establishment?  ☐ Yes ☐ No				
	6a. If yes, why				
	6b. Which days of the week will there be a cover charge (circle all applicable days)?				
	□Monday □Tuesday □Wednesday□Thursday □Friday				
	□Saturday □Sunday				
7.	Will the facility or a portion of the facility be available for private parties?  ■ Yes □ No				
	7a. If yes, explain  Dining room can be booked for parties and receptions				
8.	Will a third party (promoter) be permitted to lease, let or use the establishment? ☐ Yes ☐ No				
	8a. If yes, explain				
9.	Will there ever be a minimum age limit?  ☐ Yes ☐ No				

# Exhibit A – Page 3 Eating and Drinking Establishment

			- 1

Note: If smoking is permitted, then floor plans must be submitted showing all necessary building requirements for such facility

Signature of Applicant

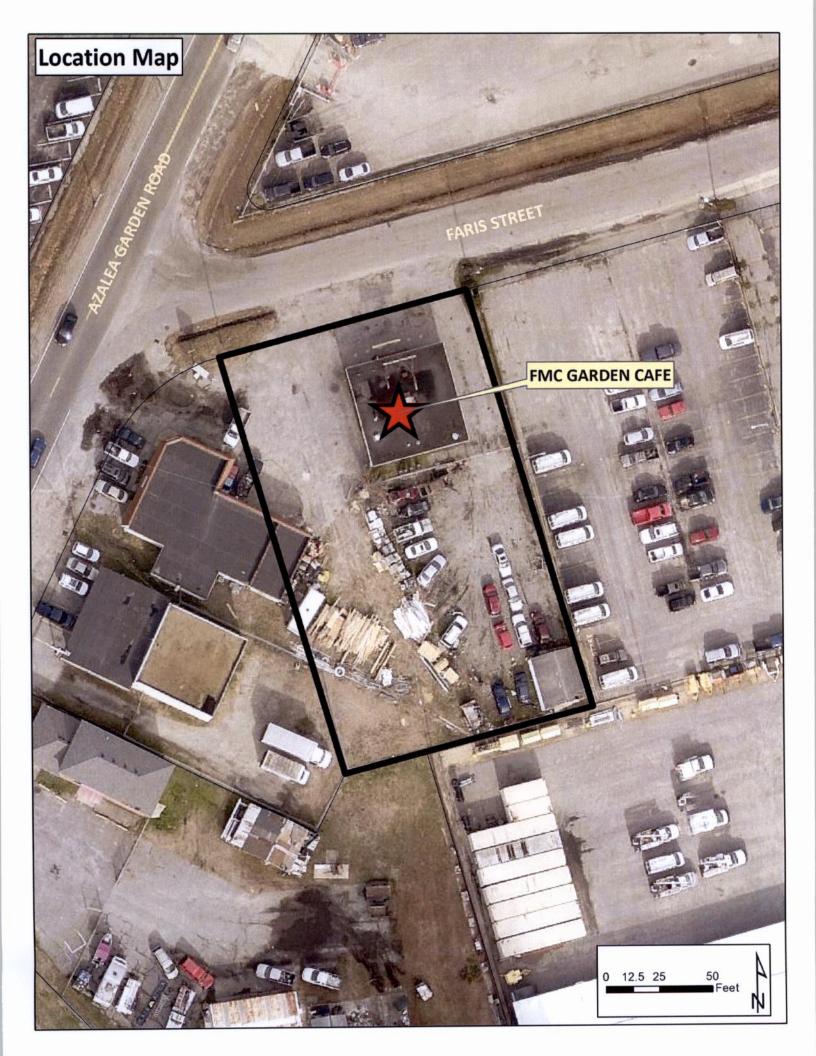
## Exhibit A – Floor Plan(s) Worksheet Eating and Drinking Establishment

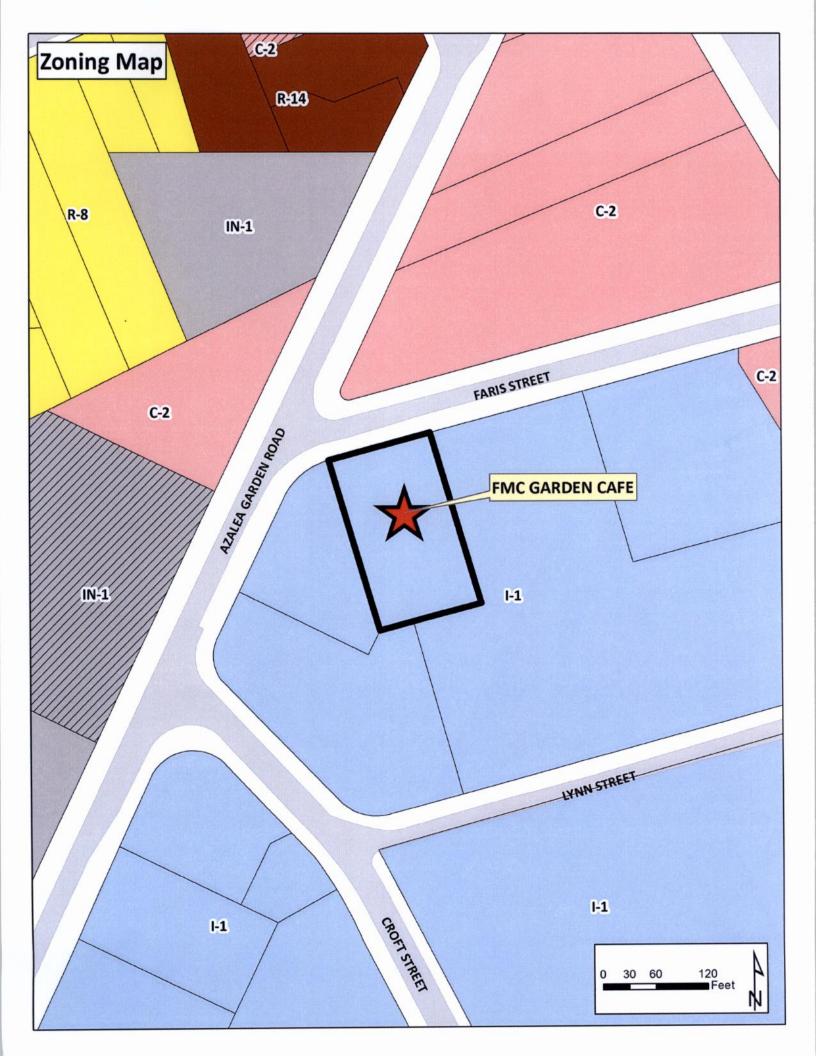
- Complete this worksheet based for each floor plan submitted with application.
- Floor plan must be prepared by a registered design professional and include:
  - o Tables/seats
  - o Restroom facilities
  - o Bar
  - o Ingress and egress
  - o Standing room
  - Outdoor seating
  - o Total maximum capacity (including employees)

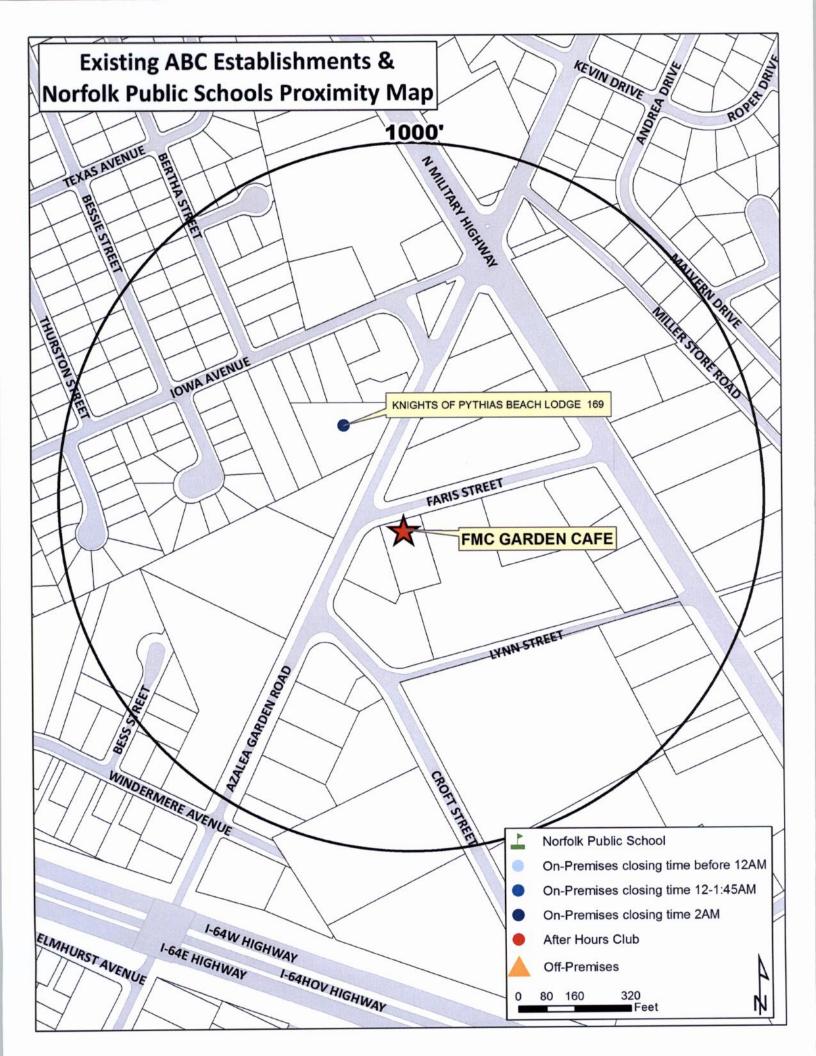
#### Total capacity

a.	Number of seats (not including bar seats) Number of bar seats Standing room	45 0 0
b.	Outdoor Number of seats	0
c.	Number of employees	5
Total (Indo	Occupancy or/Outdoor seats, standing room and employees)	<b>=</b> 50

DEPARTMENT OF CITY PLANNING 810 Union Street, Room 508









# APPLICATION ADULT USE SPECIAL EXCEPTION EATING AND DRINKING ESTABLISHMENT (Please print)

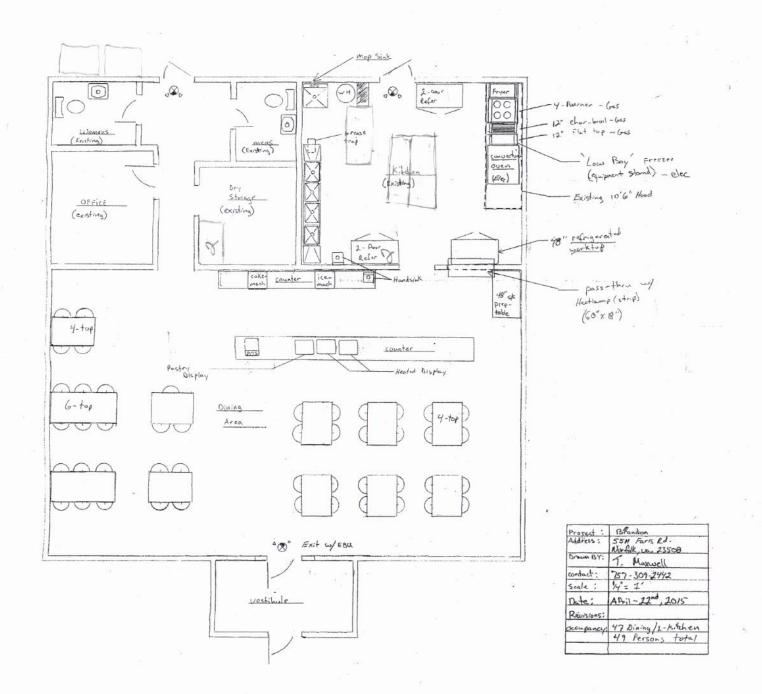
Date 1-29-16
DESCRIPTION OF PROPERTY
Address 5511 Faris St
Existing Use of Property Full Service Restaurant
Proposed Use Same
Current Building Square Footage 1800
Proposed Building Square Footage 1800
Trade Name of Business (if applicable) FMC Garden Cafe
APPLICANT (If applicant is a LLC or a Corp./Inc., include name of official representative and/or all partners
1. Name of applicant: (Last) Morrison (First) Brandon (MI) B
Mailing address of applicant (Street/P.O. Box): 947 Newell Ave
(City) Norfolk (State) VA (Zip Code) 23518
Daytime telephone number of applicant (757) 351-1636 Fax ( )
E-mail address of applicant fullmetalkit@gmail.com

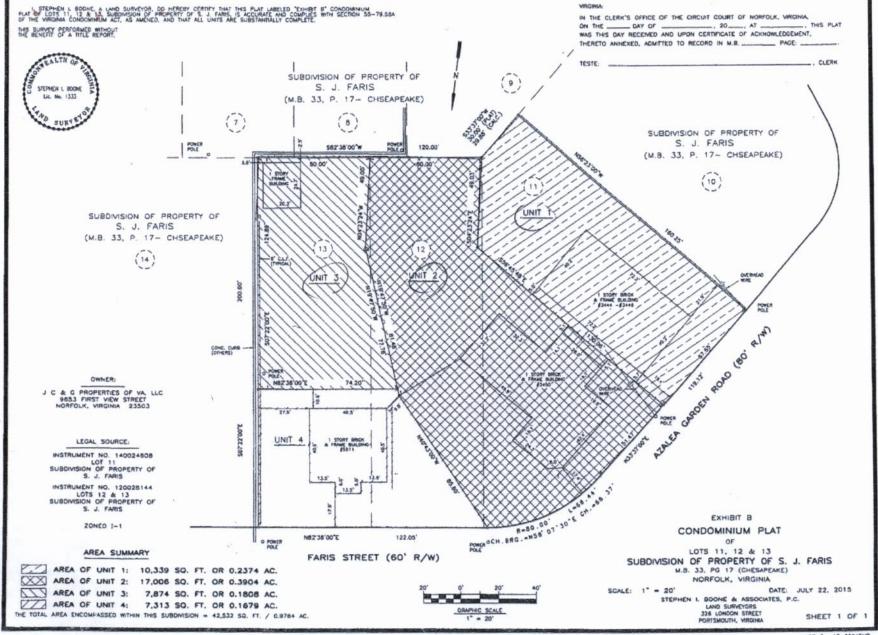
# Application Eating and Drinking Establishment Page 2

	AUTHORIZED AGENT (if applicable) (If agent is a LLC or a Corp./Inc., include name of official representative and/or all partners)
	2. Name of applicant: (Last) (First) (MI)
	Mailing address of applicant (Street/P.O. Box):
	(City) (State) (Zip Code)
	Daytime telephone number of applicant ( ) Fax ( )
	E-mail address of applicant:
(If	PROPERTY OWNER for property owner is a LLC or a Corp./Inc., include name of official representative and/or all partners  3. Name of property owner: (Last) JC&G Properties of VA, LLC (First) Joe Dunbar (MI)  Mailing address of property owner (Street/P.O. box): 9242 Marlow Ave  (City) Norfolk (State) VA (Zip Code) 23503  Daytime telephone number of owner (P57) 435-4544 email: allcitytowing@outlook.com
	CIVIC LEAGUE INFORMATION
	Civic League contact: Idlewood/Sandy Heights - Annette Johnson
	Date(s) contacted: 01/25/2016 Left Message
	Ward/Super Ward information: word 4 / Superword 7

Eating and Drin Page 3	king Establishment				
	ION omit this complete applic e and accurate to the best			nformation	containe
Print name:	bseph W. Duwlar S.R. (Property Owner or Authorize	Sign:	re)	121 30	<u>I 15</u> (Date)
Print name:_	BRANDON MORRISON  (Applicant)	_Sign:(Dat		12 1 30	115
ONLY NEEDED IF	APPLICABLE:				
Print name:_	(Authorized Agent Signature)	_Sign:	(Date)		_/

Application





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